

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DUNCAN AVIATION, INC., a
Nebraska Corporation,

Plaintiff,

vs

RIVER RUN PROJECTS, LLC,
a New Hampshire Limited Liability
Company,

Defendants.

Case No. 4:07CV3035

**MEMORANDUM
AND ORDER**

Pending before me is a motion to dismiss for lack of jurisdiction and for a glitch in service of process. I will deny the motion. Briefly, my reasons for the denial are these:

* By showing that the plaintiff and the defendant have engaged in a course of business dealings dating back to 2000, involving more than sixty-three invoices submitted by the plaintiff to the defendant totally more than \$83,000 exclusive of the alleged contract at issue, exercise of personal jurisdiction over the defendant in Nebraska does not offend traditional notions of fair play and substantial justice. It is sufficient proof to overcome a motion to dismiss made under Rule 12(b)(2).

* The motion regarding the process issue is made under Rule 12(b)(4). (See filing 3.) “An objection under Rule 12(b)(4) concerns the form of the process rather than the manner or method of its service.” 5B Charles Alan Wright and Arthur R. Miller, *Federal Practice and Procedure* § 1353 at 334 (2004). In the absence of prejudice, service of process that substantially complies with the requirements, such as the process served here, is sufficient to withstand an attack under Rule 12(b)(4).

Id. at 342 (“In the case of an objection under Rule 12(b)(4) to the form of the process, the motion will be granted only when the defect is prejudicial.”)

Accordingly,

IT IS ORDERED that:

1. The motion to dismiss (filing 3) is denied.
2. The defendant shall answer or otherwise plead within 30 days of today’s date.

July 23, 2007.

BY THE COURT:

s/Richard G. Kopf
United States District Judge